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FRANCISCO VILLAS COMMUNITY ASSOCIATION

9 UNITED STATES DISTRICT COURT

10 DISTRICT OF NEVADA

11 **FRANCISCO VILLAS COMMUNITY**
ASSOCIATION, a Nevada Nonprofit
12 Cooperative Corporation Without Stock,

13 Plaintiff,

14 vs.

15 **XL SPECIALTY INSURANCE COMPANY,** a
Delaware corporation,

16 Defendant.
17 _____/

Case No. 2:14-cv-372-JAD-(VCF)

**THE PARTIES' SECOND JOINT MOTION
AND PROPOSED ORDER TO STAY
FURTHER PROCEEDINGS PENDING A
PRIVATE MEDIATION**

18 Plaintiff **FRANCISCO VILLAS COMMUNITY ASSOCIATION** (hereinafter "Francisco Villas")

19 and Defendant **XL SPECIALTY INSURANCE COMPANY** (hereinafter "XL"), by their counsel of
20 record, hereby move the Court to enter a further order staying the proceedings in this matter
21 an additional forty-five (45) days pending a private party mediation, which is now scheduled
22 for July 2, 2014.

23 **POINTS AND AUTHORITIES**

24 Plaintiff, Francisco Villas, is a homeowners association which purchased Commercial
25 General Commercial Insurance with Defendant XL. The Policy insures the structures and
26 improvements of the Association's members' condominiums.

1 On January 17, 2014, Plaintiff filed the declaratory relief action against XL seeking
2 declarations that the Policy covers damage which occurred to the homeowners condominium
3 foundations and structures between September 9, 2011 through September 27, 2012. It
4 appears that a water main below the surface of the ground broke releasing mass amounts of
5 water under the foundations of the condominium project which caused subsidence and
6 resultant damage to the condominium buildings, the structures and improvements. The
7 residents/member-tenants of four (4) units have been completely displaced, and it is likely that
8 an additional four (4) residents/member-tenants of the other side of the same structure may
9 be order to vacate their units, as well.

10 XL believes that there were provisions of the policy which excluded coverage for some
11 or all of the damage incurred. Plaintiff on the other hand, insists that the interpretation of the
12 policy would justify coverage. Nonetheless, prior to suit, Defendant XL thrice denied the claim
13 of Plaintiff Francisco Villas.

14 After serving the Complaint herein, the parties had some preliminary discussions which
15 indicate that common ground might be reached in resolving the matter at an early stage.¹
16 After cogent, candid and thorough discussions, the parties agreed to mediate this matter with
17 private mediator Joseph Bongiovi, and the mediation was originally set for May 15, 2014.

18 However, upon further communication and coordination of site visits by the parties and
19 their experts, the parties agreed to postpone the mediation to ensure that the parties have
20 ample time to prepare for the mediation. The delay of the mediation was for good cause to
21 ensure that the mediation has the maximum potential for success. Additional due diligence
22 by both parties, and even by members of the Plaintiff, continue at this time.

23
24
25 ¹The Complaint, Answer and Counterclaim have been filed by the parties. Statements
26 of interested parties have also been filed along with the statement concerning the removal of
27 this action from state to federal court. Francisco Villas has yet to file a reply to the
 counterclaim; nor have the parties met to draft a Discovery Plan/Scheduling Order to the court.
 Discovery has not been undertaken, other than the initial evaluations done by contractors,
 engineers and adjusters of the parties.

1 Upon the Parties' earlier Joint Motion to Stay (Docket No. 7), this Court entered its
2 Order (Docket No. 8) staying this matter until June 10, 2014 to allow for the planned
3 mediation to go forward without requiring the parties to expend any additional resources on
4 pre-mediation litigation.

5 The parties have now rescheduled the mediation with Mr. Bongiovi for Wednesday, July
6 2, 2014.

7 The parties still believe that the matter can be resolved by good faith mediation and
8 resolution of the underlying claims. If so, this litigation would be either dismissed, or thereafter
9 resolved with very limited discovery and motions.

10 Therefore, the parties hereby move this Court for an Order extending the stay of the
11 proceedings in this matter an additional forty-five (45) days to July 25, 2014 to allow the
12 parties an opportunity to resolve this matter at the July 2, 2014 mediation.

13 In the event this case is not settled during the mediation or the reasonable period of
14 time after the mediation, the parties will file a proposed discovery plan and scheduling order
15 not later than Friday, July 25, 2014.

16 Dated: May 14, 2014.

17 LAW OFFICES OF STEVEN J. PARSONS

CHRISTIAN, KRAVITZ, DICHTER, JOHNSON & SLUGA, LLC

18 /s/ Steven J. Parsons
19 STEVEN J. PARSONS
Nevada Bar No. 363

/s/ Martin J Kravitz
MARTIN J. KRAVITZ
Nevada Bar No. 83

20 Attorneys for Plaintiff
21 **FRANCISCO VILLAS COMMUNITY
ASSOCIATION**

Attorneys for Defendant
XL SPECIALTY INSURANCE CO.

22 **ORDER**

23 Upon the foregoing Motion, and good cause appearing, therefore,

24 **IT IS SO ORDERED** that the parties' Motion is hereby **GRANTED**.

25 Dated: May ¹⁵____, 2014.

26 
27 **U.S. DISTRICT/MAGISTRATE JUDGE**